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Office of Patent Publication

STEVEN M MITCHELL
PACESETTER INC
701 EAST EVELYN AVENUE
SUNNYVALE, CA 94086

In re Application of :
CASEY O'HARA :
Application No. 10/092,666 : **DECISION ON PETITION**
Filed: March 5, 2002 :
Attorney Docket No. VT0309-US1 :

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR § 1.181, received in the United States Patent & Trademark (USPTO) on February 9, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for Applicants failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed September 23, 2005. The Notice of Abandonment indicates that the submitted fee of $0 is insufficient. A balance of $1,400 is due.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on December 2, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 22-0265. Unfortunately, on December 2, 2005, when an attempt was made by the Office of Finance to charge the fee, there were insufficient funds in the Deposit Account.

37 CFR §1.25 (a) and (b), states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR § 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR § 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application
- Under 37 CFR § 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703 308-9250.

Thomas E. Hawkins
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